

June 28, 2024



Pursuant to 28 U.S.C. § 2071(b), comments are invited on proposed revisions to the following Circuit Rule:

- New Circuit Rule 26.1-1 (Disclosure Requirements)

The Court is planning to issue a new Circuit Rule to accompany FRAP 26.1 regarding required disclosures of corporate relationships. This new Rule would clarify when and how such disclosures must be made and the content of those disclosures. The goal is to provide the Judges with timely information that will allow them to determine whether or not to recuse themselves from a case.

If ultimately approved by the Court, this rule would become effective December 1, 2024.

Please direct comments to Molly C. Dwyer, Clerk of Court, at Molly_Dwyer@ca9.uscourts.gov, and Susan V. Gelmis, Chief Deputy Clerk, at Susan_Gelmis@ca9.uscourts.gov.

Comments must be submitted no later than August 2, 2024.

Circuit Rule 26.1-1 Disclosure Statement

Purpose. 28 U.S.C. § 455 describes the circumstances that require judges to disqualify themselves from proceedings. The purpose of this Circuit Rule is to provide judges with the information they need to determine whether to disqualify themselves.

All parties, amici, and intervenors must use Form __ (FRAP 26.1 and Circuit Rule 26.1-1 Disclosure Statement) and must file it separately from any brief or other pleading using the filing event “Form _ Disclosure.”

(a) Filing and Supplementing the Disclosure Statement

- (1) Within 14 days after the docketing of the appeal or petition, each party must file a completed Form __. If a party files a motion less than 14 days after a case is opened, Form __ must be filed at the time the motion is filed.

Prospective intervenors must file Form __ with their motion to intervene. Prospective amici must file Form __ with their motion for leave and amici appearing by consent must file Form __ with their proposed brief.

- (2) When a party, amicus, or intervenor learns of any changes or additions to its initial (or last supplemented) disclosure statement, the party must file a supplemental disclosure statement using Form __.
- (3) Each party, amicus, or intervenor has a duty to file supplemental disclosure statements as long as the case is pending in this Court.

(b) Contents of Disclosure Statement

- (1) A corporation, association, joint venture, partnership, syndicate, or similar entity appearing as a party or amicus curiae in any proceeding must disclose all parent companies and any publicly held company with a 10% or greater ownership interest (e.g. stock or partnership shares) in the entity. The disclosure shall specify what the percentage of ownership is for each of the listed companies. Parent companies include all companies that control the entity directly or indirectly through intermediaries.

A corporate entity must be identified by its full corporate name as registered with a secretary of state's office and, if its stock is publicly listed, its stock symbol or "ticker".

A supplemental Form __ must be filed any time there is a change in corporate ownership interests that would affect the disclosures required by this rule.

- (2) If a party is aware that any judge on this Court participated at any stage of the case—whether in the district court, in administrative proceedings, or in related state court proceedings—the party must provide the name of the judge, and the case number and name of the related proceedings.
- (3) In a criminal case, unless the government shows good cause, it must file a statement that identifies any organizational victim of the alleged criminal activity. If the organizational victim is a corporation, the statement must also disclose the information required by Rule 26.1(a) and subsection (b)(1) of this rule to the extent it can be obtained through due diligence.

Cross-reference Cir. R. 27-13.